

20. (Withdrawn) The method in accordance with claim 19 wherein said C-shaped members are maintained with an overlap formed from the edge of the segments.

21. (Withdrawn) The method in accordance with claim 20 wherein said overlap is sewn or glued to the surface of the segment.

REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. Applicants acknowledge with appreciation the indication by the Examiner that claims 7 and 8 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-11 are now pending. Claims 1 and 4-9 are amended, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents. Claims 12-21 are withdrawn as being drawn to non-elected status.

No new matter is added by this amendment.

It is submitted that these claims are patentably distinct from the prior art cited by the Examiner, and that these claims are in full compliance with the requirements of 35 U.S.C. §112. The amendments and remarks herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather the amendments and remarks are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Support for the amended recitations in the claims is found throughout the specification and from the pending claims.

II. OBJECTIONS TO THE DRAWINGS

The drawings stand objected for not showing the means for filling and emptying (claim 1) and the length of a segment being equal to the circumference (claim 9). Figure 2A provides end caps 19 for filling and emptying the vessel via ports 21. Notably, co-pending U.S. Patent Application Serial No. 09/832,739 filed April 11, 2001 entitled "Flexible Fluid Containment Vessel" discussed on page 5, lines 4-10 in the instant application, sets forth in detail means for filling and emptying the FFCV.

In addition figure 2 is amended to include the length of a segment 17 being equal to the circumference.

Consequently, reconsideration and withdrawal of objection are respectfully requested.

III. 35 U.S.C. §112, SECOND PARAGRAPH, REJECTIONS

Claims 1-11 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. The amendments to the claims render the rejections moot.

Consequently, reconsideration and withdrawal of the Section 112, second paragraph, rejections are respectfully requested.

IV. 35 U.S.C. §§ 102 AND 103 REJECTIONS

Claims 1 and 9-11 were rejected under 35 U.S.C. § 102(e), as allegedly anticipated by U.S. Patent No. 6,550,410 to Reimers ("Reimers"). In addition, claims 2-6 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Reimers in view of U.S. Patent No. 5,203,272 to Kassinger et al. ("Kassinger") and U.S. Patent No. 2,065,480 to Soper ("Soper"). The rejections will be collectively addressed and respectfully traversed. The cited documents, either alone or in combination fail to teach, suggest, enable, or provide the motivation for a skilled artisan to practice the instantly claimed invention.

The instant invention is directed to a flexible fluid containment vessel for the transportation of cargo comprising a fluid or fluidisable material, said vessel comprising, *inter alia*, an elongated flexible tubular structure having a circumference comprised of at least two fabric segments, means for joining said segments together; said means for joining comprising a first upright member on a surface of a first segment along an edge thereof; a second upright member on a surface of a second segment along an edge thereof; aligning said first and second upright members, means for sealing a space between said first and second segments and means for securing said first and second upright members together wherein said means for securing said first and second upright members is only affixed on either the inside or the outside of the structure. That is, the joint can be serviced or affixed, from one side of the vessel preferably the outside. Such an invention is neither taught, enabled or suggested in the cited documents.

More specifically, Reimers, either alone or in combination, fails to disclose, *inter alia*, the means for securing said first and second upright members adapted to be secured on only one side of said vessel. Rather, Reimers provides the need to secure the joint from both the inside and the outside of the vessel, corresponding to the freshwater side and the seawater side of the vessel, respectively. Specifically, as seen in figures 6A and 6B, string 220 runs through holes in the section fabric on the inside and outside of the joint 200. Because Reimers does not disclose each and every element of claim 1 and its dependent claims, the 102 rejection based on Reimers cannot stand.

Claims 2-6 were rejected under 35 U.S.C. §103 as allegedly being rendered obvious by Reimers in combination with Kassinger and Soper. Kassinger and Soper do not remedy the inherent deficiencies in Reimers. Neither Kassinger nor Soper suggest, disclose or enable the instantly claimed invention. Kassinger relates to a flexible double hull for liquid cargo vessels

and merely provides a clamp with male and female pressing members. (Figure 7b). In no part of this document is there a teaching or motivational recitation of upright members generally C-shaped or a means for sealing a space including a means having respective complimentary shaped portions to receive said C-shape.

Soper is equally defective. Soper relates to metal containers such as drums, barrels and casks and methods of making the same, and not to flexible vessels. As Soper provides metal barrels with meltable joints, and not to flexible fluid containment vessel for the transportation of cargo, the requisite motivation to combine these documents is absent.

In addition, in no part of this document is there a teaching or motivational recitation where a "clamp joint comprises c-shaped edge portions of the material to be clamped together, and I-shape insert between the edge portions that receives the edge portions, and a U-shaped clamp that maintains the c-shaped portions together and the I-shape portion therebetween." (*Office Action* at 5). Indeed, Soper provides that "... ring 31 initially is flat ... and this portion of the ring is melted down and fused to the flanges 27c and 28c, by arc welding during assembly of the barrel thus extending the wells far into the interior of the joint." (Page 2, left column, lines 51-56, Figure 5). Accordingly, the alleged I-shaped insert (31), in Soper, is melted down and permanently fused to the alleged C-shaped edge portions securing the arrangement, whereas the I-shape means for sealing the space of the present invention is removable and is not fused to, nor secures, the upright members.

In addition, the alleged U-shaped clamp (29c), in Soper, may be omitted altogether. (Page 2, left col., lines 59-61.) In contrast, the U-shape clamp of the present invention necessarily maintains the C-shape members in the clamping arrangement with each other and the I-shaped sealing means and may not be omitted. Therefore, the cited documents, either alone or in

combination, fail to teach, suggest, enable, or provide the motivation for a skilled artisan to practice the instantly claimed invention.

It is well-settled that picking and choosing portions from three disparate references in order to formulate an obviousness rejection is impermissible. Further, "obvious to try" is not the standard upon which an obviousness rejection should be based. See *In re Fine*. And as "obvious to try" would be the only standard that would lend the Section 103 rejection any viability, the rejection must fail as a matter of law.

In order to ground an obviousness rejection, there must be some teaching which would have provided the necessary incentive or motivation for modifying the reference's teaching. *In re Laskowski*, 12 U.S.P.Q. 2d 1397, 1399 (Fed. Cir. 1989); *In re Obukowitz*, 27 U.S.P.Q. 2d 1063 (B.P.A.I. 1993). And as stated by the Court in *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783-1784 (Fed. Cir. 1992): "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification." Also, the Examiner is respectfully reminded that for the Section 103 rejection to be proper, both the suggestion of the claimed invention and the expectation of success must be founded in the prior art, and not Applicants' disclosure. *In re Dow*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988).

Against this background, the cited documents fail to teach, suggest or disclose the instantly claimed invention.

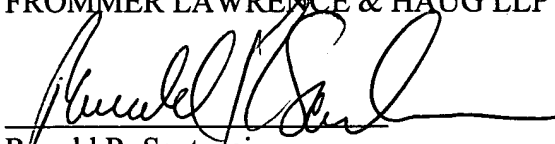
Consequently, reconsideration and withdrawal of the §§ 102 and 103 rejections are believed to be in order and such actions are respectfully requested.

CONCLUSION

By this Amendment, the instant claims should be allowed; and this application is in condition for allowance. Favorable reconsideration of the application, withdrawal of the rejections, and prompt issuance of the Notice of Allowance are, therefore, all earnestly solicited.

Respectfully submitted,
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